

The Honorable Brian A. Tsuchida

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,

v.

PAUL G. HURLEY,
Defendant.

NO.

MJ 15-437

COMPLAINT

Count 1

18 U.S.C. § 201(b)(2)

(Soliciting and Agreeing to Receive a Bribe
by a Public Official)

Counts 2 and 3

18 U.S.C. § 201(b)(2)

(Receiving a Bribe by a Public Official)

BEFORE the Honorable Brian A. Tsuchida, United States Magistrate Judge, United
States Courthouse, Seattle, Washington

The undersigned complainant being duly sworn states:

COUNT 1

(Soliciting And Agreeing To Receive a Bribe By A Public Official)

1. On or about September 11, 2015, at Seattle, in the Western District of
Washington, the defendant, PAUL G. HURLEY, a public official, directly and indirectly
did corruptly demand, seek, and agree to receive and accept something of value
personally, in return for being influenced in the performance of an official act, and to be

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1 induced to do or omit any act in violation of his official duty; that is \$20,000 in
2 connection with the conduct of his duties as an Internal Revenue Service ("IRS")
3 Revenue Agent.

4 2. From July 2015 through the present, PAUL G. HURLEY was a public
5 official, employed in the State of Washington as an IRS Revenue Agent.

6 3. From July 2015 through the present, PAUL G. HURLEY's official duties
7 included conducting examinations of taxpayers' tax filings to determine whether the
8 taxpayers had correctly reported and paid their tax liability to the IRS.

9 4. In July 2015, Taxpayer A received official correspondence from the IRS
10 indicating that Taxpayer A had been selected for an audit of his business, with the IRS
11 point of contact for the audit being Revenue Agent PAUL G. HURLEY.

12 5. Thereafter and on multiple occasions, PAUL G. HURLEY met with
13 Taxpayer A at Taxpayer A's place of business to conduct the audit.

14 6. During the last audit meeting on September 11, 2015, PAUL G. HURLEY
15 provided Taxpayer A the results of the audit. PAUL G. HURLEY claimed to have saved
16 Taxpayer A over \$1 million. PAUL G. HURLEY made a further comment that he
17 (PAUL G. HURLEY) was living paycheck to paycheck. PAUL G. HURLEY had
18 previously talked about being unhappy at the IRS. Taxpayer A suspected PAUL G.
19 HURLEY was proposing that Taxpayer A make a personal payment to PAUL G.
20 HURLEY. In response, Taxpayer A rubbed his fingers together and looked at PAUL G.
21 HURLEY to see if that was PAUL G. HURLEY's intention. PAUL G. HURLEY
22 responded by stating "20," which Taxpayer A understood to mean \$20,000. Taxpayer A
23 asked PAUL G. HURLEY how he wanted the payment. PAUL G. HURLEY responded
24 that he wanted Taxpayer A to pay off PAUL G. HURLEY's student loans in small
25 amounts over time. Taxpayer A told PAUL G. HURLEY, in sum and substance, that
26 Taxpayer A did not believe that was a good idea. PAUL G. HURLEY then told
27 Taxpayer A he wanted cash. Taxpayer A suggested that Taxpayer A and PAUL G.
28 HURLEY meet on September 16, 2015, at a Starbucks to make the payment. PAUL G.

1 HURLEY agreed, and told Taxpayer A not to tell anyone, not even Taxpayer A's
2 business partner.

3 All in violation of Title 18, United States Code, Section 201(b)(2).

4 **COUNT 2**

5 **(Receiving A Bribe By A Public Official)**

6 7. The allegations contained in paragraphs one through six are realleged and
7 incorporated as though fully set forth in this paragraph. On or about September 16, 2015,
8 at Seattle, in the Western District of Washington, the defendant, PAUL G. HURLEY, a
9 public official, directly and indirectly did corruptly receive and accept something of value
10 personally, in return for being influenced in the performance of an official act, and to be
11 induced to do or omit any act in violation of his official duty; that is \$5,000 in connection
12 with the conduct of his duties as an IRS Revenue Agent.

13 All in violation of Title 18, United States Code, Section 201(b)(2).

14 **COUNT 3**

15 **(Receiving A Bribe By A Public Official)**

16 8. The allegations contained in paragraphs one through six are realleged and
17 incorporated as though fully set forth in this paragraph. On or about September 21, 2015,
18 in the Western District of Washington, the defendant, PAUL G. HURLEY, a public
19 official, directly and indirectly did corruptly receive and accept something of value
20 personally, in return for being influenced in the performance of an official act, and to be
21 induced to do or omit any act in violation of his official duty; that is \$15,000 in
22 connection with the conduct of his duties as an IRS Revenue Agent.

23 All in violation of Title 18, United States Code, Section 201(b)(2).

24 //

25 //

1 The undersigned complainant, being duly sworn, states:

2 1. I, Mark J. Nakatsu, am a Special Agent for the Federal Bureau of
3 Investigation ("FBI"). I have been a Special Agent for the past 27 years. For
4 approximately 21 of those years, I have investigated and received extensive training in
5 various white collar crime matters. During my career, I have investigated cases involving
6 bribery and corruption by federal, state and local public officials. I am currently assigned
7 to a squad that is in part responsible for the investigation of public corruption. The
8 information in this affidavit is based on my personal knowledge, review of documents
9 and other evidence, and information received from other FBI Special Agents and Special
10 Agents of the United States Treasury Department, Treasury Inspector General for Tax
11 Administration ("TIGTA").

12 2. I believe that the investigation leading to the filing of this affidavit has
13 established probable cause to believe that PAUL G. HURLEY has solicited and agreed to
14 receive a bribe and received bribes, all in violation of Title 18, United States Code,
15 Section 201(b)(2).

16 3. Because this Complaint is submitted for the limited purpose of establishing
17 probable cause, it does not set forth each and every fact that I or others have learned
18 during the course of this investigation. I have set forth only the facts that I believe are
19 necessary to establish probable cause that PAUL G. HURLEY has committed the offense
20 of Soliciting and Agreeing to Receive a Bribe by a Public Official, in violation of Title
21 18, Section 201(b)(2), and Receiving a Bribe by a Public Official, in violation of Title 18,
22 United States Code, Sections 201(b)(2).

23 **DETAILS OF INVESTIGATION**

24 4. The FBI and TIGTA are conducting a criminal investigation into
25 allegations that IRS internal revenue agent PAUL G. HURLEY solicited and received a
26 bribe in return for being influenced in the performance of an official act in connection
27 with the conduct of his duties as an IRS Internal Revenue Agent. The investigation has
28 revealed that PAUL G. HURLEY solicited and accepted money in exchange for

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1 providing low tax assessments on an IRS tax audit of a taxpayer (referred to as "Taxpayer
2 A").

3 5. PAUL G. HURLEY has been employed as revenue agent with the IRS
4 since June 22, 2009, and he is currently stationed in the IRS's Seattle, Washington office.
5 IRS revenue agents are assigned to conduct IRS tax audits on IRS tax returns as part of
6 their official duties. As part of the audit process, IRS Revenue Agents conduct
7 examinations of taxpayers' tax filings to determine whether the taxpayers correctly
8 reported and paid their tax liability to the IRS. If an IRS Revenue Agent receives cash,
9 the Revenue Agent is instructed to have an IRS employee from another division process
10 the cash and provide a receipt.

11 6. On September 15, 2015, Taxpayer A was interviewed by Special Agents of
12 the FBI and TIGTA. Taxpayer A stated that he is part owner of a business that operates
13 recreational marijuana shops and medical marijuana dispensaries in the State of
14 Washington.

15 **The Start of the Audit**

16 7. Taxpayer A said that on July 13, 2015, he received official notice of an IRS
17 audit of his business's 2013 federal return. Taxpayer A provided Special Agents the
18 notification letter, and I have reviewed it. The letter appears to be signed by PAUL G.
19 HURLEY, whose name is listed as the "person to contact." After receiving the notice,
20 Taxpayer A called PAUL G. HURLEY on the number listed on the notification to set up
21 a meeting date for the audit.

22 **The Audit Meetings**

23 8. Taxpayer A said he had his initial meeting with PAUL G. HURLEY on
24 July 28, 2015, at one of Taxpayer A's business locations. Taxpayer A advised that
25 during the audit meeting, PAUL G. HURLEY mentioned Section 280E of the Internal
26 Revenue Code. Title 26, United States Code, Section 280E, states that no deduction or
27 credit is allowed for a business whose activities consist of trafficking in illegal
28 substances. Thereafter, on multiple occasions, including the dates set forth below,

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1 Taxpayer A met with PAUL G. HURLEY at Taxpayer A's place of business while
2 PAUL G. HURLEY conducted his examination.

3 9. On July 29, 2015, Taxpayer A met with PAUL G. HURLEY for the official
4 start of the audit. Taxpayer A said PAUL G. HURLEY went over the formalities of the
5 IRS audit, and noted that Taxpayer A would be taxed on the business's gross revenue
6 with limited deductions.

7 10. Taxpayer A described PAUL G. HURLEY as "chummy." In conversation,
8 Taxpayer A asked PAUL G. HURLEY how he ended up at the IRS when PAUL G.
9 HURLEY had a law degree. PAUL G. HURLEY said he needed a job and the IRS
10 would pay off his student loans. Taxpayer A said that PAUL G. HURLEY seemed
11 lenient on the IRS audit. Taxpayer A felt PAUL G. HURLEY had sympathy for
12 injustices in the marijuana industry, and Taxpayer A felt he was lucky that PAUL G.
13 HURLEY was being lenient.

14 11. On August 6, 2015, during another meeting between Taxpayer A and
15 PAUL G. HURLEY, the audit was expanded from tax year 2013 to include tax year
16 2014.

17 12. On September 9, 2015, during a meeting between PAUL G. HURLEY and
18 Taxpayer A, PAUL G. HURLEY ran out of tobacco. Taxpayer A purchased tobacco for
19 PAUL G. HURLEY, but PAUL G. HURLEY did not reimburse him. In addition, PAUL
20 G. HURLEY told Taxpayer A that he had back pain from hiking, so Taxpayer A offered
21 cannabis lotion, which PAUL G. HURLEY used.

22 **The September 11th Solicitation**

23 13. Taxpayer A further stated that the last audit meeting was held on September
24 11, 2015. During that meeting, PAUL G. HURLEY gave Taxpayer A the results of the
25 audit on a Form 4549, Income Tax Examination Changes. PAUL G. HURLEY told
26 Taxpayer A that he could accept the amount listed on the form, or he could appeal it.
27 Taxpayer A told PAUL G. HURLEY he agreed to the amount and signed the form.
28 According to Taxpayer A, PAUL G. HURLEY also signed the Form 4549. PAUL G.

1 HURLEY then gave Taxpayer A a copy of Form 4549, which PAUL G. HURLEY had
2 signed. Taxpayer A provided the investigating Special Agents with this copy containing
3 what appears to be PAUL G. HURLEY's signature. I have compared the signatures on
4 the notification letter and the Form 4549 provided by Taxpayer A, and the signatures
5 appear to match. The Form 4549 that Taxpayer A provided to the Special Agents had a
6 proposed amount due of \$122,277.20 for 2013 and \$169,898.21 for 2014.

7 14. I have reviewed the Form 4549, which includes the following statement,
8 among others:

9 "Consent to Assessment and Collection – I do not wish to exercise my
10 appeal rights with the Internal Revenue Service or to contest in the United
11 States Tax Court the findings in this report. Therefore, I give my consent to
12 the immediate assessment and collection of any increase in tax and
13 penalties, and accept any decrease in tax and penalties shown above, plus
14 additional interest as provided by law. *It is understood that this report is
subject to acceptance by the Area Director, Area Manager, Specialty Tax
Program Chief, or Director of Field Operations.*" (emphasis added).

15 15. During the investigation, an IRS supervisor was interviewed and stated that
16 when a Revenue Agent concludes a case and presents the taxpayer with a proposed
17 assessment it is done on an IRS Form 4549. If the revenue agent signs the form, and the
18 taxpayer signs the form in agreement with the assessment, the Form 4549 is then
19 submitted by the Revenue Agent to an IRS manager for review. The proposed action on
20 the Form 4549 is not finalized or assessed until an IRS manager approves the Form 4549,
21 and a case processing unit in an IRS Service Center also reviews the recommended action
22 listed on the Form 4549 and approves the assessment.

23 16. Shortly after the Form 4549 was signed, Taxpayer A asked PAUL G.
24 HURLEY if Taxpayer A could ask PAUL G. HURLEY a question "off the record."
25 PAUL G. HURLEY said yes, and Taxpayer A asked PAUL G. HURLEY a tax question
26 involving an unrelated business. Immediately thereafter, PAUL G. HURLEY asked
27 Taxpayer A if he could ask a question "off the record." Taxpayer A told PAUL G.
28

1 HURLEY yes, and the two went outside of the store. At that time, Taxpayer A expected
2 PAUL G. HURLEY to ask for a job.

3 17. Taxpayer A reported that PAUL G. HURLEY said that he (PAUL G.
4 HURLEY) had saved Taxpayer A over \$1 million in the audit. PAUL G. HURLEY then
5 said that he (PAUL G. HURLEY) was living paycheck to paycheck. According to
6 Taxpayer A, PAUL G. HURLEY had previously talked about being unhappy at the IRS.
7 Taxpayer A suspected PAUL G. HURLEY was proposing that Taxpayer A make a
8 personal payment to PAUL G. HURLEY. Taxpayer A rubbed his fingers together and
9 looked at PAUL G. HURLEY to see if that was PAUL G. HURLEY's intention. PAUL
10 G. HURLEY responded by stating "20," which Taxpayer A understood to mean \$20,000

11 18. Taxpayer A asked PAUL G. HURLEY how he wanted the payment.
12 PAUL G. HURLEY responded that he wanted Taxpayer A to pay off PAUL G.
13 HURLEY's student loans in small amounts over time. Taxpayer A told PAUL G.
14 HURLEY that Taxpayer A did not think that was a good idea. PAUL G. HURLEY then
15 said he wanted cash. Taxpayer A suggested meeting at a Starbucks in Seattle,
16 Washington, at 8:00 a.m. on September 16, 2015, to make the payment. PAUL G.
17 HURLEY agreed, and told Taxpayer A not to tell anyone, not even Taxpayer A's
18 business partner.

19 19. During the interview with the Special Agents, Taxpayer A insisted he
20 neither indicated nor hinted that he would pay PAUL G. HURLEY to lower his tax debt
21 throughout the course of his dealings with PAUL G. HURLEY.

22 **The September 16, 2015 Payment**

23 20. After Taxpayer A met with the Special Agents in the afternoon September
24 15, 2015, Taxpayer A agreed to meet with PAUL G. HURLEY at the prearranged time
25 on September 16, 2015 under observation by Special Agents. I obtained approval to
26 conduct electronic monitoring of the meeting. On September 16, 2015, Taxpayer A was
27 provided with \$5,000 cash by FBI Special Agents to provide to PAUL G. HURLEY.

28 Taxpayer A secured the money in a manila envelope in the presence of FBI Special

1 Agents. An audio recording device was placed on Taxpayer A and activated prior to his
2 meeting with PAUL G. HURLEY.

3 21. Special Agents, who were also utilizing a video recording device, saw
4 Taxpayer A sitting at a table inside the Starbucks located in Seattle, Washington. At
5 approximately 7:30 am, Taxpayer A held up the manila envelope containing the \$5,000
6 cash he had been provided for the Special Agents conducting surveillance to see, and
7 Taxpayer A placed the envelope in a newspaper and placed both items on the table in
8 front of him.

9 22. At approximately 7:51 a.m., Special Agents observed a Honda Accord 4-
10 door sedan, Washington license plate ARE919, pull into the parking lot for the Starbucks.
11 The registered owner of that vehicle is PAUL G. HURLEY.

12 23. At approximately 7:53 a.m., Special Agents observed PAUL G. HURLEY
13 exit his car and walk into the Starbucks wearing a backpack. At approximately 7:56 a.m.,
14 Special Agents observed PAUL G. HURLEY sit down at a table with Taxpayer A where
15 they engaged in conversation.

16 24. At approximately 8:02 a.m., Special Agents observed PAUL G. HURLEY
17 and Taxpayer A stand up from the table. Taxpayer A put on his jacket. PAUL G.
18 HURLEY sat back down, opened his backpack, took the envelope of money inside the
19 newspaper on the table and placed both items together inside of his backpack. PAUL G.
20 HURLEY stood up again and both he and Taxpayer A departed the Starbucks. PAUL G.
21 HURLEY and Taxpayer A then began smoking cigarettes outside of the entrance to the
22 Starbucks while they engaged in further conversation.

23 25. At approximately 8:11 a.m., Special Agents observed PAUL G. HURLEY
24 walk away from Taxpayer A. PAUL G. HURLEY put the backpack containing the
25 envelope of money inside the trunk of his Honda Accord.

26 26. Special Agents debriefed Taxpayer A about the meeting with PAUL G.
27 HURLEY and also reviewed the electronic recording of the same. Taxpayer A advised
28 he told PAUL G. HURLEY he was worried about getting into trouble for making the

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1 payment. PAUL G. HURLEY said, in sum and substance, "You're not in trouble. I
2 brought this up to you. I'm the one that is going to get into trouble. You didn't bring it
3 to me. We're fine. It's good."

4 27. During the debriefing, Taxpayer A advised he asked PAUL G. HURLEY
5 about how the completed IRS audit process was done. An FBI Special Agent told me
6 that on the recording, PAUL G. HURLEY stated: "I, I finished...I finished closing
7 everything out, got it all wrapped up and stuck it in my manager's box yesterday...late
8 yesterday"; "She's not in today...which is good...so that means the afternoon manager
9 comes in and reviews in...and that's just rubberstamping it. So there's no problem there.
10 It...that's good...it gets forwarded up."

11 28. Also during the debriefing, Taxpayer A stated he told PAUL G. HURLEY
12 there was only \$5,000 in there as partial payment. An FBI Special Agent told me that on
13 the recording, Taxpayer A stated: "I gotta split...this is the other part I was gonna tell
14 you, I'll give you 5 [thousand dollars] today, don't freak out on me...I'm gonna give you
15 more. Can you give me until Monday and I'll get you the rest? Part of me was scared
16 that if I hand you 20k... I'm like is this guy going to get fucking pulled over and freak
17 out." On the recording, PAUL G. HURLEY replied: "I'll just throw it in the trunk and
18 no record or nothing." On the recording, Taxpayer A stated: "Monday, I'll get you the
19 rest 100%." In the debriefing, Taxpayer A stated he and PAUL G. HURLEY plan to
20 meet again at the same Starbucks location on Monday, September 21, 2015, at 8:00 am.

21 29. I was told by the Special Agent reviewing the audio recording that portions
22 of the recording were difficult to hear because of background noise. There is also a
23 portion of the recording where Taxpayer A and PAUL G. HURLEY both leaned forward
24 and whispered conversation.

25 **The September 21, 2015 Payment**

26 30. On September 21, 2015, at approximately 8:00 a.m., Taxpayer A met with
27 PAUL G. HURLEY inside of Taxpayer A's vehicle in the parking lot of the Seattle
28 Starbucks where the two had previously met on September 16, 2015. I had approval to

1 conduct electronic monitoring of the meeting. On September 21, 2015, Taxpayer A was
2 provided with \$15,000 cash by TIGTA Special Agents. Taxpayer A secured the money
3 in a manila envelope in the presence of TIGTA Special Agents. An audio recording
4 device was placed on Taxpayer A, along with audio and video recording devices that
5 were placed in his vehicle. All of the devices were activated prior to Taxpayer A's
6 meeting with PAUL G. HURLEY.

7 31. At approximately 7:55 a.m., Special Agents observed PAUL G.
8 HURLEY's Honda Accord 4-door sedan bearing Washington license plate ARE919 pull
9 into the parking lot of the Starbucks. PAUL G. HURLEY proceeded to grab his
10 backpack and then get inside of Taxpayer A's vehicle.

11 32. Special Agents observed Taxpayer A meeting with PAUL G. HURLEY
12 inside of Taxpayer A's vehicle. Special Agents were also able to listen to the
13 conversation between Taxpayer A and PAUL G. HURLEY on radios, but portions of the
14 conversation could not be heard due to background noise and static. At approximately
15 8:05 a.m., Taxpayer A was overheard making the payment to PAUL G. HURLEY.
16 Taxpayer A was overheard telling PAUL G. HURLEY that he has a friend going through
17 a similar audit process and that Taxpayer A hoped that the friend could have someone
18 like PAUL G. HURLEY. PAUL G. HURLEY replied, in sum and substance, "There's
19 no one like me."


20 33. At approximately, 8:10 a.m., PAUL G. HURLEY exited Taxpayer A's
21 vehicle carrying a backpack. Special Agents then arrested PAUL G. HURLEY without
22 incident, pursuant to a probable cause arrest authorized by the United States Attorney's
23 Office for the Western District of Washington. Incident to arrest, Special Agents
24 searched PAUL G. HURLEY's person and backpack. Special Agents located the manila
25 envelope containing \$15,000 cash inside of PAUL G. HURLEY's backpack. Special
26 Agents also located four (4) U.S. Twenty Dollar bills inside of PAUL G. HURLEY's
27 wallet. Three (3) of the serial numbers for U.S. Twenty Dollar bills matched the serial
28

1 numbers of the U.S. Twenty Dollar bills paid by Taxpayer A to PAUL G. HURLEY
2 during the September 16, 2015 bribe payment.

3 34. Special Agents debriefed Taxpayer A about the meeting with PAUL G.
4 HURLEY. Taxpayer A advised that when it came time to make the \$15,000 bribe
5 payment, Taxpayer A indicated to PAUL G. HURLEY that the payment was under the
6 seat. PAUL G. HURLEY reached under the passenger seat and grabbed the manila
7 envelope. Taxpayer A and PAUL G. HURLEY talked about other things and then
8 concluded their meeting. As PAUL G. HURLEY was about to exit the vehicle, Taxpayer
9 asked PAUL G. HURLEY, "Did you grab that?" PAUL G. HURLEY replied to
10 Taxpayer A, "yes."

11 CONCLUSION

12 35. The above facts are true and correct to the best of my knowledge and belief.
13 Based upon the above, I believe there is probable cause to believe that PAUL G.
14 HURLEY has committed acts in violation of Title 18, United States Code, Section
15 201(b)(2) as alleged in this Complaint and Affidavit.

16
17 
18 MARK J. NAKATSU
19 Special Agent
20 Federal Bureau of Investigation

21 Based upon the Complaint and Affidavit sworn to before me, and subscribed in
22 my presence, the Court hereby finds that there is probable cause to believe the defendant
23 committed the offenses set forth in the Complaint.

24 Dated this 21 day of September, 2015.

25
26 

27 BRIAN A. TSUCHIDA
28 United States Magistrate Judge